

## **IC 8-4-14**

### **Chapter 14. Reorganization of Railroads After Sale**

#### **IC 8-4-14-1**

##### **Authority for reorganization**

Sec. 1. (a) In case of the sale of any railroad and its property, under or by the authority of any competent court or courts (part of which railroad may be situate within the state of Indiana and part situate in an adjoining state, and embraced in the mortgage or mortgages or deed or deeds of trust), it may be sold at one (1) time and place, as an entirety, at such point on the line of said railroad, either within or without the state, and upon such notice, as the court or courts ordering such sale may direct.

(b) In case of the reorganization of any railroad and its property under or by the authority of any competent court or courts of the United States in a proceeding for the reorganization of a railroad pursuant to Regional Rail Reorganization Act (11 U.S.C. 101(33), 1163, and 1166 et seq.), the corporation to which all or any part of said railroad and its property may be transferred by or pursuant to an appropriate order or decree of said court or courts may be a corporation organized under this chapter and having all of the powers, rights, privileges, immunities, and franchises provided in this chapter.

(c) This chapter is hereby declared to apply to and embrace any and all sales or purchases of railroads, their franchises, rights, and privileges, under judicial decrees, or judgments of any of the courts of the state of Indiana, or of the United States, at any time, whether said sale under such decrees or judgments, may have occurred before or after March 6, 1945.

*(Formerly: Acts 1945, c.202, s.1.) As amended by P.L.62-1984, SEC.66.*

#### **IC 8-4-14-2**

##### **Certificate of reorganization**

Sec. 2. In case of the sale of any railroad and its property (situated wholly or partly within this state, or situated partly in this state and partly in an adjoining state) by virtue of any mortgage or mortgages or deed or deeds of trust, either by foreclosure or other judicial proceedings, or pursuant to any power contained in such mortgage or mortgages or deed or deeds of trust, or by the joint exercise of said powers and authorities, the purchaser or purchasers thereof, their survivor or survivors, or he or his or they or their associates or assigns, may form a corporation by filing in the office of the secretary of state a certificate specifying the name and style of the corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one (1) year), the amount of original capital, and the number of shares into which said capital is to be divided; and in case of the reorganization of any railroad and its property (situated wholly or partly within this state and whether owned prior to the reorganization proceedings by a

corporation of this state or by a corporation of another state) in a proceeding under section 77 of the Act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States," as amended, any three (3) or more persons, being either directors or officers of the railroad, may form a corporation by filing in the office of the secretary of state a certificate specifying the name and style of the corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one (1) year), the amount of original capital, and the number of shares into which said capital is to be divided; and the persons signing said certificate, and their successors, shall be a body corporate and politic, by the name in said certificate specified, with power to sue and be sued, contract and be contracted with, and maintain and operate the railroad in said certificate named, and transact all business connected with same; and a copy of such certificate, attested by the signature of the secretary of state or his deputy, shall, in all courts and places, be evidence of the due organization and existence of the said corporation and of the matters in said certificate stated.

*(Formerly: Acts 1945, c.202, s.2.)*

### **IC 8-4-14-3**

#### **Powers, rights, privileges, immunities, and franchises**

Sec. 3. Such corporation shall possess all the powers, rights, privileges, immunities, and franchises in respect to said railroad, or the part thereof purchased or received pursuant to reorganization as aforesaid, and of all the real and personal property appertaining to the same, which were possessed or enjoyed by the corporation that owned or held the said railroad previous to such sale or reorganization proceeding by virtue of its charter and amendments thereto and other laws of this state or any state in which any part of said railroad is situate not inconsistent with the laws of this state. And it shall have power, at any time after the formation of the corporation as aforesaid, to assume any debts and liabilities of the former corporation or of the trustee in the reorganization proceeding, and to make such adjustment and settlement with any stockholder or stockholders or creditor or creditors of such former corporation as may be deemed expedient, and, for such purpose, to use such portions of the bonds and stock of said corporation as may be deemed advisable and in such manner as said corporation may deem proper; provided, that all subscribers to the original stock of said railroad company, their heirs, executors, and administrators shall (by the acceptance or adoption of this chapter by any purchaser or purchasers of any such railroad, as above provided) be released and discharged from all their unpaid subscriptions which shall not have been previously settled or arranged by agreement or compromise; and, provided, further, that such corporation, when so formed and organized, shall, in suing and being sued, and in operating such railroad, be subject to the general laws of this state not inconsistent with the original charter of said road and the amendments thereto.

*(Formerly: Acts 1945, c.202, s.3.) As amended by P.L.62-1984, SEC.67.*

#### **IC 8-4-14-4**

##### **Bonds, mortgages, or trust deeds as security**

Sec. 4. (a) Said corporation shall have power to make and issue bonds, bearing any rate of interest, whether fixed or contingent, cumulative or noncumulative, payable at such times and places, and in such amount or amounts, and with such provisions with respect to redemption, sinking fund, maturity, issuance of said bonds in series, and conversion of said bonds into stock of said corporation at any time up to the maturity of said bonds, as it may deem expedient, and to sell and dispose of said bonds at such prices and in such manner as it may deem proper, to secure the payment of any bonds which it may make, issue or assume to pay by mortgage or mortgages or deed or deeds of trust of its railroad, or any part thereof, and of its real and personal property and franchises, and to act as a corporation.

(b) All property of said corporation included in such mortgage or mortgages or deed or deeds of trust, whether then held or thereafter acquired, shall be subject to the operation and lien of such mortgage or mortgages or deed or deeds of trust, and in case of sale under the same, it shall pass to and become vested in the purchaser or purchasers thereof so as to enable them to form a corporation in the manner herein prescribed, and to vest in such corporation all the faculties, powers, authorities, immunities, and franchises conferred by this chapter.

*(Formerly: Acts 1945, c.202, s.4.) As amended by Acts 1981, P.L.11, SEC.48.*

#### **IC 8-4-14-5**

##### **Sinking fund; stock issuance**

Sec. 5. Said corporation shall have power to establish a sinking fund for the payment of its liabilities, and to issue capital stock to such aggregate amount as may be deemed necessary, not exceeding the amount named in the certificate of organization, the shares of which stock may, if so provided in a plan of reorganization approved or confirmed by a court of competent jurisdiction, be held, for a period not exceeding fifteen (15) years, by trustees possessing such voting and other rights pertaining to said shares as may be provided in such reorganization plan and in the trust document executed pursuant thereto; may make preferred or other special stock; make and establish preference in respect to dividends and assets in favor of one (1) or more classes of stock over and above other classes, and secure the same in such order and manner and to such extent as said corporation may deem expedient; may determine whether all or part of the shares of its capital stock shall have a par value, and, if so, the number and par value of such shares, and whether all or a part of said shares shall be without par value, and, if so, the number of such shares; may provide that each class of stockholders shall elect a specified number of members of each board of directors; may

provide that stockholders shall have the privilege of cumulative voting in all elections of directors; may provide for the issuance of nondividend bearing and nonvoting script for fractional shares of stock; and may confer upon the holders of any of the bonds which it may issue or assume to pay the right to vote at all meetings of stockholders (not exceeding one (1) vote for each one hundred dollars (\$100) of the par amount of said bonds), if deemed expedient; which right to vote, when once fixed, shall attach to and pass with said bonds, under such regulations as said corporation may prescribe, but shall not subject the holder to any assessment made by said company or to any liability for its debts, or entitle any holder thereof to dividends, or, in the alternative, may confer upon the holders of the bonds which it may issue or assume to pay, subject to such limitation, terms and conditions as said corporation may deem expedient to impose, the right to require that any number of the members of each board of directors (being not more than twenty-five (25) per cent of said members) shall at the time of their selection be persons satisfactory to the holders of said bonds provided that said corporation, subject to such limitations, terms and conditions as it may deem expedient to impose, may confer upon the holders of any issue of its bonds the right, whenever there shall be any unpaid accumulations of contingent interest thereon, to require that any number of the members of each board of directors shall at the time of their election be persons designated or nominated by the holders of the bonds of such issue, but in no case shall the number of directors so selected by bondholders exceed sixty per cent (60%) of the total number of members of the board of directors, and such right shall not subject the holder to any assessment made by said company or to any liability for its debts. The said corporation shall have capacity to hold, enjoy and exercise, within other states, the aforesaid faculties, powers, rights, franchises and immunities, and such others as may be conferred upon it by any law of this state or of any other state in which any portion of its railroad may be situate, or in which it may transact any part of its business; and may hold meetings of stockholders and of its board of directors, and do all corporate acts and things without this state as validly, and to the same extent, as it may do the same within the state, on the line of such road; and may make by-laws, rules and regulations, in relation to its business and the number of its directors, and the times and places of holding meetings of stockholders and directors; and may alter and change the same as may be deemed expedient.

*(Formerly: Acts 1945, c.202, s.5.)*

#### **IC 8-4-14-6**

##### **Vesting of railroad in foreign railroad corporation**

Sec. 6. In case a portion of any railroad situated within this state (a part of which is situated in another state) shall become vested in a corporation of another state, the said corporation may exercise and enjoy within this state, and also in such other state, for the purposes of such railroad and its business, all the rights, powers, faculties,

franchises, and privileges in this chapter contained; and its mortgages and trust deeds shall operate and be binding as therein specified, and all sales under the same shall be valid and effectual. Where the railroad of a railroad corporation organized under the laws of this state has or shall become vested in a railroad corporation of another state, pursuant to an order or decree of any court or courts of the United States, in a proceeding for the reorganization of such railroad corporation of another state, pursuant to Regional Rail Reorganization Act (11 U.S.C. 101(33), 1163 and 1166 et seq.), such reorganized railroad corporation may exercise and enjoy within this state for the purpose of such reorganized railroad and its business, all rights, powers, privileges, franchises, and immunities that were possessed and enjoyed by said railroad corporation organized under the laws of this state; and such reorganized railroad corporation, when necessary or proper, may exercise the power of eminent domain in acquiring additional lands or property necessary or convenient for betterments, maintenance, extension, or operation of such railroad, and for the construction, use, and maintenance of spurs, switches, sidetracks, depots, stations, terminals, and other facilities to be used in connection with such railroad, in the manner and to the extent and subject to the limitations applying to Indiana railroad corporations.

*(Formerly: Acts 1945, c.202, s.6.) As amended by P.L.62-1984, SEC.68.*

#### **IC 8-4-14-7**

##### **Powers and duties**

Sec. 7. Any railroad company incorporated under the provisions of this chapter, shall have the power and authority to acquire, by purchase or contract, the road, road bed, real and personal property, rights, and franchises, of any other railroad corporation or corporations which may cross or intersect the line of such railroad company, or any part of same, or the use and enjoyment thereof, in whole or in part, and may also purchase or contract for the use and enjoyment, in whole or in part, of any railroad or railroads, lying within adjoining states, may assume such of the debts and liabilities of such corporations as may be deemed proper; and upon purchasing any such railroad or railroads, all the real and personal property of such corporations, so purchased, and also the rights, powers, and franchises of the same, shall become vested in the railroad company so purchasing the same, together with all the rights, powers, privileges, and franchises conferred by the charter of the roads so purchased and all amendments thereto and the provisions of this chapter, and the company so purchasing or acquiring the title to, or use of such railroad or railroads shall have power to complete, maintain, and operate the same. Any railroad company incorporated under the provisions of this chapter shall also have power to consolidate with other railroad corporations in the continuous line, either within or without this state, upon such terms as may be agreed upon by the corporations owning the same; and also shall have the

power and authority to construct, equip, maintain, and operate branch railroads leading from the main line or from the termini of such railroad, from and to such points, with this state or any adjoining state, as may be deemed expedient, and in constructing the same shall have the right to enter in, and upon all lands, to survey routes, receive donations of lands or moneys, purchase, and condemn lands required for the use of the road, lay single or double tracks, to cross all watercourses and public highways, not unnecessarily obstructing the same, and in condemning lands for the use of such roads shall have all of the rights and powers conferred upon such corporations by their charters, and amendments and the general laws of this state, and all railroads purchased, and branch roads constructed as aforesaid, shall be vested in and become a part of the property of the corporation so purchasing or constructing the same, as aforesaid, and shall be in all things governed by the laws, rules, and regulations governing the corporation, purchasing or constructing the same as aforesaid, and be operated as part of its line of road upon purchasing or constructing any railroad as provided in this chapter, the corporation purchasing or constructing the same, shall have power and authority to issue new stock to such extent as may be considered advisable, and the same to dispose of, as provided in this chapter, and to issue and sell bonds to such extent as may be deemed expedient, and to secure the same by mortgages and deeds of trust upon all the real and personal property, rights, powers, and franchises of any railroad so purchased, constructed, or in course of construction as provided in this chapter; provided, that the provisions of this chapter shall not be so construed as to authorize any railroad company organizing under the same to consolidate with or acquire by contract or purchase the road, road bed, real and personal property, rights, and franchises of any railroad already built, equipped, and operated within the state of Indiana and which may cross or intersect the line of the road of any company organized under this chapter, but the powers of consolidation and purchase are hereby limited and restricted to such roads within the state of Indiana as may cross and intersect the same and which have not been equipped and operated in whole or in part.

*(Formerly: Acts 1945, c.202, s.7.) As amended by P.L.62-1984, SEC.69.*

#### **IC 8-4-14-8**

##### **Savings provisions**

Sec. 8. No rights, privileges, or immunities vested or accrued by or under Acts 1865, c.20, as amended, which was repealed by Acts 1945, c.202, s.8, shall be impaired or eliminated by reason of such repeal, nor shall such repeal affect any suits pending, rights of action conferred, or duties, restrictions, liabilities, or penalties imposed or required by or under Acts 1865, c.20, as amended, upon or of any corporation created or subject to Acts 1865, c.20, as amended, before March 6, 1945, it being understood that with respect to any corporation formed before March 6, 1945, the rights, powers, or

duties given or imposed by Acts 1865, c.20, as amended, which was repealed by Acts 1945, c.202, s.8, may be exercised or enforced after March 6, 1945, as though such repeal had not been enacted, whether or not such right, power, or duty has before March 6, 1945, been exercised or imposed upon such corporation.

*(Formerly: Acts 1945, c.202, s.9.) As amended by P.L.62-1984, SEC.70.*